

Message Text

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ORIGIN L-03

INFO OCT-01 AF-10 NEA-10 ADP-00 COA-02 EB-11 OIC-04

CIAE-00 DODE-00 PM-07 H-02 INR-10 NSAE-00 NSC-10

PA-03 RSC-01 PRS-01 SS-15 USIA-12 ACDA-19 AEC-11

AGR-20 CG-00 COME-00 DOTE-00 FMC-04 INT-08 JUSE-00

NSF-04 OMB-01 TRSE-00 IO-12 SCEM-02 SCI-06 CEQ-02

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FM SECSTATE WASHDC

TO ALL AFRICAN DIPLOMATIC POSTS

USINT CAIRO

AMEMBASSY TRIPOLI

XMT/ TRIPOLI

C O N F I D E N T I A L STATE 100166

TAGS: PBOR, OAU, XA

E. O. 11652: GDS

SUBJECT: LOS: OAU MEETINGS

1. DEPT HAS RECEIVED FROM CONFIDENTIAL SOURCE TEXT
OF RECOMMENDATIONS BY OAU GROUP OF EXPERTS ON LAW OF
SEA WHICH WILL BE CONSIDERED AT MEETINGS OF OAU
COUNCIL OF MINISTERS AND OAU SUMMIT. TEXT IS SENT FOR
YOUR INFORMATION.

2. BEGIN TEXT:
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A. TERRITORIAL SEA AND STRAITS

1. THAT THE AFRICAN STATES ADOPT, IN PRINCIPLE AND
WHATEVER POSSIBLE, A BREADTH OF 12 NAUTICAL MILES FOR THE

TERRITORIAL SEA, TO BE MEASURED FROM APPROPRIATE BASE-
LINES, PROVIDED THAT THEIR RIGHT TO ESTABLISH AN
EXCLUSIVE ZONE BEYOND THAT LIMIT, AS DEFINED IN PARA-
GRAPH 7 BELOW, IS UNIVERSALLY ACCEPTED AND RECOGNIZED.

2. PENDING SATISFACTORY NEGOTIATIONS AND THE
GENERAL ADOPTION OF A NEW REGIME CONCERNING THESE ZONES
TO BE ESTABLISHED BY THE FORTHCOMING UNITED NATIONS
CONFERENCE ON THE LAW OF THE SEA, THIS POSITION SHALL
NOT JEOPARDIZE EITHER THE PRESENT LIMITS OF THE TERRITOR-
IAL SEA OF A STATE NOR THE EXISTING RIGHTS OF STATES.

3. THAT THE AFRICAN STATES ADOPT THE PRINCIPLE OF
THE RIGHT OF ACCESS TO THE SEA BY LANDLOCKED COUNTRIES
AND THE INCLUSION OF A PROVISION TO THIS EFFECT TO THE
UNIVERSAL TREATY TO BE NEGOTIATED AT THE CONFERENCE
ON THE LAW OF THE SEA.

4. THAT THE AFRICAN STATES, TAKING ACCOUNT OF THE
IMPORTANCE OF INTERNATIONAL NAVIGATION IN STRAITS USED
FOR THIS PURPOSE, APPROVE, IN PRINCIPLE, THE REGIME OF
INNOCENT PASSAGE THROUGH SUCH STRAITS, BUT RECOGNIZE
THE NECESSITY FOR FURTHER CLARIFICATION OF THAT REGIME.

5. THAT THE AFRICAN STATES APPROVE, THEREFORE, THE
PRINCIPLE ACCORDING TO WHICH THE BASELINES OF ANY
ARCHIPELAGO STATE MAY BE DRAWN BY CONNECTING THE FARTHEST
POINTS OF THE MOST DISTANT ISLANDS OF THE ARCHIPELAGO
FOR PURPOSES OF DETERMINING THE TERRITORIAL SEA OF THE
ARCHIPELAGO STATE.

B. REGIME GOVERNING ISLANDS

6. (THAT) THE AFRICAN STATES RECOGNIZE THE NECESSITY
FOR APPROPRIATE DETERMINATION OF THE NATURE OF THE
MARITIME SPACE OF ISLANDS, AND RECOMMEND THAT THIS
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DETERMINATION BE MADE IN ACCORDANCE WITH PRINCIPLES OF
EQUITY WITH DUE REGARD TO ALL PERTINENT FACTORS AND
ALL SPECIAL CIRCUMSTANCES, INCLUDING:

- A) THE SIZE OF THE ISLANDS;
- B) THEIR POPULATION OR LACK THEREOF;
- C) THEIR CONTIGUITY TO THE PRINCIPAL LANDMASS;
- D) THEIR GEOGRAPHICAL CONFIGURATION;
- E) THE SPECIAL INTERESTS OF ISLAND STATES AND
ARCHIPELAGO STATES AND ANY OTHER PERTINENT

FACTOR.

C. CONCEPT OF THE EXCLUSIVE ECONOMIC ZONE,
INCLUDING
THE EXCLUSIVE FISHING ZONE

7. THAT THE AFRICAN STATES RECOGNIZE THE RIGHT
OF COASTAL STATES TO ESTABLISH, BEYOND THEIR TERRITORIAL
SEA, EXCLUSIVE ECONOMIC ZONES, NOT TO EXTEND BEYOND 200

NAUTICAL MILES AS MEASURED FROM THE BASELINES USED
TO DEMARCATÉ THEIR TERRITORIAL SEA.

8. THAT IN SUCH ZONES THE COASTAL STATES SHALL
EXERCISE PERMANENT SOVEREIGNTY OVER ALL MINERAL AND
LIVING RESOURCES AND SHALL MANAGE SUCH ZONES WITHOUT
UNDULY JEOPARDIZING THE OTHER LEGITIMATE USES OF THE SEA,
NAMELY, FREEDOM OF NAVIGATION AND OVERFLIGHT, AND THE
LAYING OF CABLES AND PIPELINES.

9. THAT THE AFRICAN COUNTRIES RECOGNIZE THAT
SCIENTIFIC RESEARCH AND THE CAMPAIGN AGAINST MARINE
POLLUTION IN THE ECONOMIC ZONE SHALL BE SUBJECT TO THE
JURISDICTION OF THE COASTAL STATES.

10. THAT THE AFRICAN COUNTRIES, IN ORDER THAT
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ALL OF THE REGION MAY BENEFIT FROM THE RE-
SOURCES LOCATED THERE, RECOGNIZE THAT LANDLOCKED
COUNTRIES AND OTHER UNDERPRIVILEGED COUNTRIES ARE
ENTITLED TO PARTICIPATE IN THE EXPLOITATION OF THE
LIVING RESOURCES OF NEIGHBORING ECONOMIC ZONES ON AN
EQUAL FOOTING WITH NATIONALS OF THE COASTAL STATES ON
THE BASIS OF AFRICAN SOLIDARITY AND UNDER THE TERMS OF
SUCH BILATERAL OR REGIONAL AGREEMENTS AS MAY BE
ESTABLISHED.

11. THAT NOTHING IN THE PROPOSED RECOMMENDATIONS
CONTAINED IN THIS RESOLUTION BE INTERPRETED AS RE-
COGNIZING THE RIGHTS OF REGIMES UNDER COLONIAL, FOREIGN,
OR RACIST DOMINATION IN RESPECT OF ANY OF THE FOREGOING.

D. REGIONAL ARRANGEMENTS

12. IN ORDER TO DEVELOP AND MANAGE THE RESOURCES
OF THE REGION, THE AFRICAN STATES SHOULD ADOPT WHATEVER
MEASURES ARE NECESSARY, INCLUDING COOPERATION TO
CONSERVE AND DEVELOP LIVING RESOURCES; AND ALSO TO
PREVENT AND CONTROL POLLUTION IN ORDER TO PRESERVE
THE MARINE ENVIRONMENT, THEY SHOULD ESTABLISH SUCH
REGIONAL ORGANIZATIONS AS MAY BE NECESSARY AND

SETTLE THE DIFFERENCES BETWEEN THEM IN ACCORDANCE WITH REGIONAL ARRANGEMENTS.

F. FISHERY ACTIVITIES ON THE HIGH SEAS

13. THE AFRICAN STATES RECOGNIZE THAT FISHERY ACTIVITIES ON THE HIGH SEAS HAVE A DIRECT EFFECT ON FISHERIES IN THE TERRITORIAL WATERS AND THE ECONOMIC ; ZONE. CONSEQUENTLY, THOSE ACTIVITIES MUST BE REGULATED, IN PARTICULAR WITH RESPECT TO THE HIGHLY MIGRATORY AND ANADROMOUS SPECIES OF FISH. THE AFRICAN STATES ARE THEREFORE IN FAVOR EITHER OF THE ESTABLISHMENT OF AN INTERNATIONAL REGIME OR OTHER INTERNATIONAL AUTHORITY FOR HIGH- SEAS FISHERIES HAVING SUFFICIENT POWERS TO ENFORCE WIDELY ACCEPTED PRINCIPLES OF FISHERY MANAGEMENT, OR OF REINFORCING EXISTING FISHERY COMMISSIONS
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OF THE FAO OR OTHER FISHERY- REGULATING AGENCIES IN ORDER TO PERMIT THEM TO FORMULATE APPROPRIATE REGULATIONS APPLICABLE IN ALL MARINE ZONES.

F. TRAINING IN AND TRANSFER OF TECHNOLOGY

14. THE AFRICAN STATES, IN ORDER TO PROFIT FROM THE EXPLORATION AND EXPLOITATION OF THE RESOURCES OF THE SEABED AND THE OCEAN FLOOR AND THE SUBSOIL THEREOF, SHOULD INTENSIFY NATIONAL AND REGIONAL EFFORTS TO TRAIN AND ASSIST THEIR PERSONNEL REGARDING ALL SCIENTIFIC AND TECHNOLOGICAL ASPECTS OF THE SEA. IN ADDITION, THEY WILL INVITE COMPETENT TECHNOLOGICALLY ADVANCED AGENCIES TO ACCELERATE THE TRANSFER OF MARINE SCIENCES AND TECHNOLOGY, INCLUDING PERSONNEL TRAINING.

G. SCIENTIFIC RESEARCH BEYOND THE EXCLUSIVE ECONOMIC ZONE

15. SCIENTIFIC RESEARCH IN THESE ZONES WILL BE CARRIED OUT IN CONFORMITY WITH RULES AND PROCEDURES PREPARED BY THE INTERNATIONAL MACHINERY. ALL STATES REGARDLESS OF GEOGRAPHIC SITUATION, MAY UNDERTAKE SCIENTIFIC RESEARCH IN THE MARINE ENVIRONMENT.

SCIENTIFIC RESEARCH SHOULD BE UNDERTAKEN FOR PEACEFUL PURPOSES AND SHOULD HAVE NO INJURIOUS EFFECTS ON THE MARINE ENVIRONMENT. SCIENTIFIC RESEARCH IN THE TERRITORIAL WATERS OR THE EXCLUSIVE ECONOMIC ZONE SHALL BE UNDERTAKEN WITH THE APPROVAL OF THE COASTAL STATE CONCERNED.

THE STATES AGREE TO PROMOTE INTERNATIONAL COOPERATION IN THE FIELD OF SCIENTIFIC RESEARCH ON THE SEA IN

THE REGIONS BEYOND THE LIMITS OF NATIONAL JURISDICTION.
IN THOSE REGIONS, ALL RESEARCH WILL BE UNDERTAKEN IN
ACCORDANCE WITH PROCEDURES TO BE FIXED BY THE INTERNATIONAL
MACHINERY.

H. AN INTERNATIONAL REGIME AND INTERNATIONAL MACHINERY
FOR THE SEABED AND THE OCEAN FLOOR AND THE SUBSOIL
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THEREOF, BEYOND THE LIMITS OF NATIONAL JURISDICTION

16. THAT THE AFRICAN STATES REAFFIRM THEIR
FAITH IN THE DECLARATION OF PRINCIPLES CONTAINED IN
RESOLUTION 2749(XXV) OF THE UNITED NATIONS GENERAL
ASSEMBLY AS WELL AS THEIR CONVICTION THAT, IN ORDER
FOR THE OBJECTIVES STATED IN THAT DECLARATION TO BE
ACHIEVED, THOSE PRINCIPLES MUST BE REPEATED IN THE
ARTICLES OF THE TREATY GOVERNING THE AREA.

17. THAT THE AFRICAN STATES PARTICULARLY REAFFIRM
THEIR FAITH IN THE PRINCIPLE OF THE COMMON HERITAGE OF
MANKIND, A PRINCIPLE WHICH MUST NOT BE LIMITED IN
ANY WAY BY RESTRICTIVE INTERPRETATIONS.

18. THAT, WITH RESPECT TO THE INTERNATIONAL AREA
OF THE SEABEDS, THE AFRICAN STATES REAFFIRM THAT, UNTIL
THE ESTABLISHMENT OF THE INTERNATIONAL REGIME AND
INTERNATIONAL MACHINERY, THE REGIME APPLICABLE IN THE
AREA SHALL BE THE ONE PROVIDED IN THE DECLARATION OF
PRINCIPLES IN RESOLUTION 2749 (XXV) AND THE RESOLUTION
CONCERNING THE MORATORIUM AND THAT, IN ACCORDANCE WITH
THE PROVISIONS OF THE DECLARATION AND RESOLUTIONS,
NO STATE OR PERSON, NATURAL OR JURISTIC, SHALL UNDERTAKE
ACTIVITIES DIRECTED TOWARD COMMERCIAL EXPLOITATION OF
THE AREA.

19. THAT THE AFRICAN STATES SUPPORT A LIMIT FOR
THE INTERNATIONAL AREA DETERMINED BY THE DISTANCE
MEASURED FROM THE APPROPRIATE BASELINES, WITHOUT PRE-
JUDICE TO THE PROVISIONS OF PARAGRAPHS 1 AND 6 ABOVE.

20. THAT THE AFRICAN STATES AFFIRM THAT:

A) THE COMPETENCE OF THE INTERNATIONAL MACHINERY
SHALL EXTEND TO THE SEABED AND OCEAN FLOOR AS WELL
AS TO THE SUBSOIL THEREOF, BEYOND THE LIMITS OF NATIONAL
JURISDICTION.

B) THE MACHINERY MUST HAVE COMPLETE LEGAL STATUS,
WITH FUNCTIONAL PRIVILEGES AND IMMUNITIES. IT MAY HAVE
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WORKING RELATIONS WITH THE UNITED NATIONS AGENCIES BUT
IT SHALL RETAIN VERY GREAT POLITICAL AND FINANCIAL
INDEPENDENCE;

C) THE MACHINERY MUST POSSESS SIGNIFICANT AND BROAD
POWERS. AMONG OTHERS, IT MUST HAVE THE RIGHT TO EXPLORE
AND EXPLOIT THE AREA; REGULATE ACTIVITIES IN THE REGION;
EQUITABLY DISTRIBUTE THE BENEFITS, AND REDUCE TO A
MINIMUM THE ECONOMIC REPERCUSSIONS THAT MIGHT ENSUE FROM
FLUCTUATION OF THE PRICE OF RAW MATERIALS AS A RESULT
OF ACTIVITIES CARRIED OUT IN THE AREA; DIVIDE EQUITABLY
AMONG ALL DEVELOPING COUNTRIES THE RECEIPTS FROM ANY
TAX (OR FISCAL CHARGE) COLLECTED FOR ACTIVITIES
CONNECTED WITH EXPLOITATION OF THE AREA; PROTECT THE
MARINE ENVIRONMENT; AND REGULATE AND UNDERTAKE SCIENTIFIC
RESEARCH, THUS GIVING FULL MEANING TO THE CONCEPT OF
THE COMMON HERITAGE OF MANKIND;

D) AN ASSEMBLY SHALL BE ESTABLISHED, COMPOSED
OF ALL MEMBERS, WHICH SHALL BE INVESTED WITH FULL POWERS,
AND A COUNCIL, COMPOSED OF A LIMITED NUMBER OF MEMBERS
CHOSEN ACCORDING TO THE PRINCIPLE OF EQUITABLE
GEOGRAPHIC DISTRIBUTION, WHICH SHALL PERFORM, IN A
DEMOCRATIC FASHION, THE MAJORITY OF THE MACHINERY'S
FUNCTIONS. A SECRETARIAT TO PROVIDE SERVICES TO ALL
THE ORGANS AND A COMMISSION CHARGED WITH SETTling
DISPUTES SHALL ALSO BE ESTABLISHED. THE ASSEMBLY AND
THE COUNCIL SHALL BE EMPOWERED TO CREATE SPECIALIZED
SUBSIDIARY ORGANS AS NEEDED.

END TEXT. RUSH

NOTE BY OC/ T: POUCHED AMEMB TRIPOLI

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